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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 MICHAEL STEVE COX,

11 Plaintiff,

12 v.

13 DWIGHT NEVEN, *et al.*,

14 Defendants.
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Case No. 2:11-CV-00103-KJD-NJK

ORDER

16 Before the Court is the Motion for Voluntary Dismissal (#75) filed by Plaintiff Michael Steve
17 Cox.

18 On March 1, 2013, the Court issued an Order (#74) denying Plaintiff's Motion for
19 Reconsideration of various orders from Magistrate Judges Johnston and Koppe denying his request
20 for additional discovery and various legal supplies. The Court ordered Plaintiff to file an opposition
21 to Defendants' pending Motion for Summary Judgment (#51). In light of Plaintiff's repeated delays
22 and requests for enlargement of time, the Court ordered Plaintiff to file an opposition or before
23 March 14, 2013 without further delay or request for enlargement, and warned that failure to file an
24 opposition would result in granting the Motion to Dismiss..

25 On March 11, 2013, Plaintiff filed a Motion for Voluntary Dismissal, seeking "voluntary
26 dismissal without prejudice to reinstate this civil complaint in the near future with private counsel to

1 properly fully prosecute this complaint . . . [or] alternatively process notice of appeal against this
2 Court's order(s) (#74)."

3 Fed. R. Civ. P. 41(a)(2) provides that "an action may be dismissed at the plaintiff's request
4 only by court order, on terms that the court considers proper." Plaintiff failed to file an opposition to
5 the Motion for Summary Judgment despite the clear and unmistakable instruction from the Court that
6 failure to do so would result in summary judgment being granted against him. However, the Court
7 has considered Plaintiff's Motion for Voluntary Dismissal. The Court will grant Plaintiff's Motion
8 for Voluntary Dismissal without prejudice if Plaintiff associates with private counsel to re-file his
9 case within 60 days.¹ If Plaintiff chooses to re-file his action, he must provide proof that he has
10 associated with private counsel within 60 days. If Plaintiff does not provide proof that he has
11 associated with private counsel within 60 days, then the Court will grant summary judgment in favor
12 of Defendants pursuant to its prior Order and Local Rule 7-2.

13 Accordingly, **IT IS HEREBY ORDERED** that the Motion for Voluntary Dismissal (#75)
14 will be granted if Plaintiff files proof that he has associated with counsel within 60 days.

15 **IT IS FURTHER ORDERED** Motion for Summary Judgment (#51) is **TERMINATED**
16 pending proof that Plaintiff has associated with counsel. If Plaintiff fails to file proof that he has
17 associated with counsel within 60 days, then the Motion for Summary Judgment will be renewed and
18 granted in accordance with this Order.

19 DATED this 18th day of March 2013.

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Kent J. Dawson
United States District Judge

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26 ¹ The Court warns Plaintiff that Rule 41(d) permits a court to order a plaintiff to pay all or part of the costs of a
previously dismissed action upon refiling.